

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICHARD L. GATHERCOLE,

Defendant.

4:17CR3096

ORDER

The defendant has filed a § 2255 motion alleging four claims. Out of an abundance of caution, I want the government to respond even though there is a collateral attack waiver.¹ I will give the defendant the opportunity to reply.

IT IS ORDERED that the United States shall file an answer and responsive brief addressing *all* the claims in the motion, filing no. 106 and filing no. 107, no later than Friday, June 26, 2020. The defendant may file a reply no later than Monday, July 13, 2020.

Dated this 26th day of May, 2020.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge

¹ The defendant claims ineffective assistance of counsel and that is an explicit exception to the collateral attack waiver. Additionally, the defendant asserts that the government breached the plea agreement because a detainer from a state court in California remains in place and the plea agreement contemplated a “global” resolution. There is some indication in the cases that a breach of a plea agreement is also an implicit exception to a collateral attach waiver.